IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NOs: 6833 of 2002 & 8178 of 2002

1) W.P.No.6833 of 2002

Between:

P.S.Prasad, S/o late P.S.Ramachandra Murthy,
Aged 45 years, Head Master (incharge)

S.K.U.Campus High School, S.V.Puram,

Anantapur, Anantapur District.

..... PETITIONER

AND

1. The Registrar and the Correspondent,
S.K.U.Campus High School,

S.V.Puram,
Anantapur, Anantapur District.
2. The District Educational Officer, Anantapur,
Anantapur District.
3. The Regional Joint Director of School Education,
Cuddapah.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction, more particularly one in the nature of Writ of Mandamus,

declaring the inaction of the 1st respondent in fixing the pay of the Petitioner in the Revised Pay scales of 1993, sanctioning of two additional increments and fixing the pay in revised pay scales of 1999 as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India, and consequently direct the 1st respondent to fix the petitioner's pay in the corresponding 1993 and 1999 revised pay scales with two additional increments attached to Secondary Grade Teacher's Post.

Counsel for the Petitioner: MR.R.VENKATA RAMUDU

Counsel for the Respondent No.1: MR.P.SREE RAMULU NAIDU

Counsel for the Respondent Nos.2 & 3: G.P for School Education

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2) W.P. NO : 8178 of 2002

Between:

P.S.Prasad S/o Late P.S.Ramachandra Murthy
Aged 45 years, Head Master (incharge)

S.K.U.Campus High School, S.V.Puram,
Anantapur, Anantapur District.

..... PETITIONER

AND

1. The Correspondent, S.K.University Campus High School/

The Registrar,
S.K. University, Anantapur,
Anantapur District.
2. The Regional Joint Director of School Education
Cuddapah, Cuddapah District.
3. The District Educational Officer
Anantapur, Anantapur District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to pass orders, particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not following the staffing pattern prescribed under the rules, and exploiting the higher services without pay as arbitrary, illegal, contrary to the rules and violative of Articles 14, 16 & 21 of the Constitution of India, and consequently direct the respondents to follow the staffing pattern by upgrading the petitioner as Head Master with all the attendant benefits, and grant such other relief

as this Hon'ble High Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.KASAJAGANMOHAN REDDY

Counsel for the Respondent No.1: MR.P.SREE RAMULU NAIDU

Counsel for the Respondent Nos.2 & 3: G.P for School Education

The Court made the following:

COMMON ORDER:

Heard the learned counsel appearing on behalf of the petitioner and also the respondents. Since the parties are same in these two matters, they are being taken up for disposal.

The petitioner, who is working as in-charge Headmaster with the first respondent – institution, filed these two petitions, *inter alia* seeking for a direction to fix his pay in the corresponding 1993 and 1999 revised pay scales with two additional increments and also to provide the benefits due to him in the staff pattern, prescribed under the Rules.

The facts, in brief, are that the first respondent – institution came into existence in the year 1971 and the same was upgraded to high school in the year 1990. The petitioner, who possessed B.Sc and B.Ed qualifications besides passing accounts test, was appointed in the year 1990 as Secondary Grade Teacher and in view of his qualifications, it is claimed that he is entitled to be appointed as the Headmaster. However, the pay fixation is not done in the proper scale along with the increments to which he is entitled. Therefore, the petitioner claims that he is entitled to placing of his pay in the proper

pay scale and further in the other writ petition, he seeks to be regularly appointed as Headmaster on the basis of the existing staff pattern. Hence, these two writ petitions.

Contesting the claim of the petitioner, the case of the respondents through the counter-affidavits filed by the first respondent is that the appointment of the petitioner is purely temporary. In fact, he was initially appointed as an Attender on 01-05-1982 and promoted to Record Assistant and thereafter he was promoted to Junior Assistant on 09-11-1987. It was further submitted that at the relevant point of time, the petitioner did not exercise the option for revised pay scales and it is done only in regard to the employees who have exercised the option to their substantive post. But, since the petitioner did not opt for it, he is not entitled to any such indulgence as sought for. It was their case that there is no sanctioned post of Headmaster in the institution and, therefore, question of considering the case of the petitioner does not arise as long as the posts are sanctioned. Therefore, the pay of the petitioner is liable to be fixed in the revised pay scales in the substantive post of Junior Assistant only.

During the course of arguments, the learned counsel for the petitioner sought to place reliance on the Judgment, in case of similarly placed employees, in W.P.No.5182 of 1994 dated
22-04-2002 wherein this Court allowed the same by taking into consideration the fact that the school was upgraded and the appointment was approved in the unaided post. In view of the said Judgment squarely applying to the facts of the case and also being in respect of the same institution, there is nothing to deny such benefit. Having regard to the services put in by the petitioner and also in view of the fact that he has been working as in-charge Headmaster, apart from the fact that he duly holds all the required qualifications being a graduate with B.Ed., and also having passed the accounts test, in respect of which there has been no dispute on behalf of the respondents herein, the impugned action of the respondents denying such benefit is unsustainable. In view of the same, it has to be held that the petitioner is entitled to the scales of pay as sought for apart

from considering his case for the regular post, more so, in view of the upgradation of the school and also the approval of the appointment as observed in the aforesaid Judgment.

Accordingly, both the writ petitions are allowed as prayed for. No costs.

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27-12-2004.

Lrkm.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday the Twenty seventh day of December Two thousand and Four.

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ASSISTANT REGISTRAR

To

1. The Registrar and the Correspondent,
S.K.U.Campus High School, S.K.University,

S.V.Puram,
Anantapur, Anantapur District.

2. The District Educational Officer, Anantapur,
   Anantapur District.
3. The Regional Joint Director of School Education,
   Cuddapah, Cuddapah District.

4. 2 CCs to G.P for School Education, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

5. 2CD copies.